

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:

S.F.I., Inc.
SFI North Jefferson Landfill
Jefferson County
Solid Waste Disposal Permit No. 37-47

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Order No. 10-XXX-SW

FINDINGS OF FACTS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), and the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§ 22-27-1 to 22-27-18 (2006 Rplc. Vol. and 2009 Cum. Supp.), and the ADEM Administrative Code promulgated thereunder, the Alabama Department of Environmental Management (hereinafter “ADEM” or “the Department”) makes the following findings of fact:

1. S.F.I., Inc. (herinafter the “Permittee”) is the holder of ADEM Solid Waste Permit No. 37-47, issued October 31, 2006, which authorizes the operation of SFI North Jefferson Landfill, a construction/demolition landfill located on Praco-Wegra Road in Sylvan Springs, Jefferson County, Alabama.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency authorized to administer and enforce the provisions of the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§ 22-27-1 to 22-27-18 (2006 Rplc. Vol. and 2009 Cum. Supp.).

4. On October 31, 2006, the Department issued Solid Waste Disposal Permit (hereinafter “the Permit”) number 37-47 to S.F.I. Inc. for the operation of a construction/demolition landfill (hereinafter “landfill”) located on Praco-Wegra Road in Sylvan Springs, Alabama.

5. On April 22, 2008, Department personnel inspected the Permittee’s landfill for compliance with the ADEM Administrative Code. During the inspection the following violation was documented:

a. ADEM Admin Code r. 335-13-4-.21(1)(b) requires that waste accepted at the facility shall be strictly controlled so as to allow only waste stipulated on the permit. At the time of inspection, Department

personnel documented household garbage in the working face. The Permittee was not approved to accept this waste stream.

6. On June 26, 2008, the Department issued a Notice of Violation (hereinafter "NOV") to the Permittee for the violation documented during the April 22, 2008, inspection.

7. The Department did not receive a response to the June 26, 2008, NOV.

8. On April 22, 2009, Department personnel inspected the Permittee's landfill for compliance with the ADEM Administrative Code. During the inspection, the following violations were documented:

a. ADEM Admin. Code r. 335-13-4-.23(1)(c) requires that all waste be confined to as small an area as possible and placed onto an appropriate slopes not to exceed 4 to 1. At the time of the inspection, Department personnel observed that the facility was operating two working faces.

b. ADEM Admin. Code r. 335-13-4-.23(1)(a)1. requires that a minimum of six inches of compacted earth shall be added at the conclusion of each week's operation to control disease vectors, fires, odors, blown litter and scavenging. At the time of the inspection, Department personnel observed that the Permittee had failed to cover waste on a weekly basis.

c. ADEM Admin. Code r. 335-13-4-.21(1)(b) requires that waste accepted at the facility be strictly controlled so as to allow only waste stipulated on the permit. At the time of the inspection, Department personnel observed household garbage and a crushed television in the working face. The Permittee was not approved to accept these waste streams.

d. ADEM Admin. Code r. 335-13-4-.23(1)(d): The facility shall be operated in accordance with the approved plans and permits. At the time of the inspection, Department personnel observed waste in the sediment pond. It appeared that waste was being disposed of in the sediment pond which is outside of the approved disposal area.

9. On May 5, 2009, the Department issued a NOV to the Permittee for the violations documented during the April 22, 2009, inspection.

10. On June 16, 2009, the Department received a response to the May 5, 2009, NOV.

11. On November 24, 2009, Department personnel inspected the Permittee's landfill for compliance with the ADEM Administrative Code. During the inspection, the following violations were documented:

- a. ADEM Admin Code r. 335-13-4-.17(3) requires that owners or operators must design, construct, and maintain on-site drainage structures to carry incident precipitation from the disposal site so as to minimize the generation of leachate, erosion, and sedimentation. During the inspection, Department personnel documented that the area above the active face was not sloped to prevent pooling of water.
- b. ADEM Admin Code r. 335-13-4-.17(2) requires that owners or operators must design, construct, and maintain a run-off control system from the active and/or closed portions of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm. At the time of inspection, Department personnel documented that soil had eroded around the basin's standpipe, which would allow stormwater to bypass treatment.
- c. ADEM Admin Code r. 335-13-4-.21(1)(e) requires that the facility be identified with a sufficient number of permanent markers which are at least visible from one marker to the next. At the time of inspection, Department personnel documented that boundary markers had been removed.
- d. ADEM Admin Code r. 335-13-4-.23(1)(c) requires that all waste be confined to as small an area as possible and placed onto an appropriate slope not to exceed 4 to 1 (25%) or as approved by the Department. At the time of inspection, Department personnel documented that outer slopes were greater than 4 to 1.
- e. ADEM Admin Code r. 335-13-4-.23(2)(b) requires that litter be controlled within the permitted facility. At the time of inspection, Department personnel documented that waste had accumulated below the sediment basin's outfall.
- f. ADEM Admin Code r. 335-13-4-.23(2)(c) requires that completed sites or portions of sites shall be properly closed as provided by this Division and approved facility plans. At the time of inspection, Department personnel documented that slopes had eroded and waste was exposed throughout the landfill.
- g. ADEM Admin Code r. 335-13-4-.23(1)(d) requires that the facility be operated in accordance with the approved plans and permits. At the time of inspection, Department personnel documented the accumulation of waste in the sediment basin, which is not a permitted disposal area.
- h. ADEM Admin Code r. 335-13-4-.23(2)(f) requires that a quarterly report utilizing a format approved by the Department which summarizes the daily volumes shall be submitted to the Department and maintained on file in the operating record of the facility by the Permittee. At the time of the inspection, the facility had failed to submit a volume report for October – December of 2008 and for January – March, April – June, and July – September of 2009.

12. On December 11, 2009, the Department issued a NOV to the Permittee for the violations documented during the November 24, 2009, inspection.

13. On February 23, 2010, the Department received the requested volume reports; however, a response to the other violations has not been received.

14. On June 18, 2010, Department personnel inspected the Permittee's landfill for compliance with the ADEM Administrative Code. During the inspection, the following violations were documented:

a. ADEM Admin. Code r. 335-13-4-.21(1)(b) requires that waste accepted at the facility be strictly controlled so as to allow only waste stipulated on the permit. At the time of the inspection, Department personnel observed a television in the working face. The Permittee was not approved to accept this waste stream.

b. ADEM Admin Code r. 335-13-12-.01(3) requires that by no later than April 15, 2010, all public solid waste management facilities in the State are required to have at least one certified operator on-site during hours of operation. At the time of the inspection, Department personnel determined that the facility does not have a certified landfill operator on staff.

c. ADEM Admin Code r. 335-13-4-.23(1)(c) requires that all waste be confined to as small an area as possible and placed onto an appropriate slope not to exceed 4 to 1 (25%) or as approved by the Department. At the time of inspection, Department personnel documented that the active face of the landfill slope was steeper than 4 to 1.

15. ADEM Admin Code r. 335-13-4-.23(2)(f) requires that a quarterly report utilizing a format approved by the Department which summarizes the daily volumes shall be submitted to the Department and maintained on file in the operating record of the facility by the Permittee. On July 14, 2010, the Department determined that the Permittee had failed to submit a volume report for January – March of 2010.

16. ADEM Admin. Code r. 335-13-4-.16(2)(c)2.(i) requires that all explosive gas monitoring reports be submitted to the Department and placed in the operating record of the facility within 30 days of the monitoring event. The Permittee has failed to submit annual explosive gas monitoring reports for calendar years 2008 and 2009.

CONTENTIONS

Pursuant to Ala. Code § 22-22A-5(18)c. (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the

environment and any threat to the health or safety of the public; the standard of care manifested by the Permittee; the economic benefit which delayed compliance may confer upon the Permittee; the nature, extent and degree of success of the Permittee's efforts to minimize or mitigate the effects of such violation upon the environment; the Permittee's history of previous violations; and the ability of the Permittee to pay such penalty. Any civil penalty assessed pursuant to this authority shall not be less than \$100.00 or exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Permittee did not comply with provisions of ADEM Admin. Code div. 335-13. There may be potential environmental impacts associated with failing to adequately control waste accepted at the facility. There may be potential environmental impacts associated with failing to adequately control stormwater.

B. THE STANDARD OF CARE: The Permittee failed to operate in a manner commensurate with applicable solid waste requirements.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if the Permittee has realized a significant economic benefit as a result of the violations noted.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of any efforts employed by the Permittee to mitigate potential effects upon the environment that may have been created as a result of the violations previously listed.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has a history of similar violations at the facility.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c (2006 Rplc. Vol.), as well as the need for timely and effective enforcement, and has concluded that a civil penalty in the amount of \$21,500.00 is appropriate given the repeat

actions of the violator, and in keeping with a penalty range imposed by the Department for similar violations at other permitted facilities, as follows (see attachment A):

<u>Violation Type</u>	<u>Penalty Range for Violation Type</u>
Landfill Operation Requirements	\$100 - \$25,000
Landfill Reporting Requirements	\$100 - \$25,000

ORDER

Based on the foregoing findings of facts and pursuant to Ala. Code, §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(18), 22-27-4(b), and 22-27-7, it is hereby ordered:

A. That, not later than forty-five days after issuance of this Order, the Permittee shall pay to the Department a civil penalty in the amount of \$21,500.00 for the violations cited herein. Said penalty shall be made payable to the Alabama Department of Environmental Management by certified check or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

All checks shall reference the Permittee's name and address and the ADEM Administrative Order number of this action.

B. That, immediately upon the issuance of this Order and continuing each and every day thereafter, the Permittee shall comply with all applicable provisions of ADEM Admin. Code div. 335-13.

C. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against, the Permittee for the violations cited herein.

D. That failure to comply with the provisions of the Order shall constitute cause for commencement of legal action by the Department against, the Permittee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this _____ day of _____, 2010.

Lance R. LeFleur

Director

Attachment A
Penalty Calculation Worksheet
SFI Inc. (SFI North Jefferson Landfill)
(Solid Waste Disposal Permit No. 37-47)

Violation*	Number of Violations*	Seriousness of Violation & Base Penalty*	Standard of Care*	History of Previous Violations*
Waste not covered weekly with 6" soil	1	1000		
Waste not confined to small area and on 4 to 1 slope	3	3000		
Failure to maintain drainage/sedimentation control structures	2	1500		
Failure to properly close completed areas	1	1000		
Unapproved waste streams	3	1500	1000	1000
Failure to provide boundary markers	1	500		
Failure to control litter	1	500		
Failure to submit quarterly volume reports	5	1500	1500	1500
Disposal Outside of Approved area	2	2000	500	1000
Failure to submit Explosive Gas Monitoring Reports	2	1000	500	500
Failure to provide a certified operator on staff	1	500		
Totals:	-	14,000	3,500	4,000
Economic Benefit:	-			
Mitigating Factors:	-			
Ability to Pay:	-			
Other Factors:	-			
Civil Penalty:				\$21,500.00

Footnotes

* See the "Findings" of the order.